IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13950 of 2004

Between:

Tulasi Mahila Mandali (Regd.No. 276/75), Khanapur Village and Mandal, Warangal District, Rep. by its President Smt. Vemulapalli Rani.

..... PETITIONER

AND

1 The Joint Collector, Warangal District, Warangal.
2 The Revenue Divisional Officer, Narsampet Division, Warangal District.
3 The Mandal Revenue Officer, Khanapur Mandal, Warangal District.
4 K. Sunitha W/o K. Mohan Reddy, Khanapur village and Mandal, Waranga District.

(R 4 is impleaded as per court order dt. 21-9-2004 in WPMP 21952 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ or order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in passing the order in Procs.No.E/581/2004 dated 14-07-2004 as bad, illegal, arbitrary and against the principles of natural justice and consequently direct the respondents to continue the petitioner as Fair Price Shop Dealer of Shop No.II of Khanapur Village and Mandal of Warangal District.

Counsel for the Petitioner: MR.C.DAMODHAR REDDY

Counsel for Respondents 1 to 3: GP FOR CIVIL SUPPLIES

Counsel for Respondent No.4: Mr.A.Prabhakar Rao

The Court at the stage of admission made the following Order:

The writ petition is filed by Tulasi Mahila Mandali, represented by its President Smt.Vemulapalli Rani, seeking a declaration that the order of the second respondent-Revenue Divisional Officer, Narsampet Division, Warangal District dated 14-07-2004, where under the authorisation of the petitioner in respect of the Fair Price Shop No.II of Khanapur Village and Mandal, Warangal District has been cancelled, as arbitrary and illegal.

It is not in dispute that the authorization was granted in the name of "Tulasi Mahila Mandali" long back. The name of the dealer has been shown in the authorisation as President of Tulasi Mahila Mandali.

A perusal of the impugned order dated 14-07-2004 shows that a notice dated 22-06-2004 was issued to one Smt. M.Shakuntalamma, describing her as the Secretary of the Tulasi Mahila Mandali and calling upon her to explain certain allegations specified therein. The said Smt. M.Shakunthalamma submitted explanation dated 05-07-2004 stating that due to old age, she is not in a position to run the shop and she has also shifted her residence to Hanumakonda and therefore, the dealership may be cancelled. She also said that she is not running the Fair Price Shop and that the same is being rum by Smt.Vemulapalli Rani. On the basis of the said explanation offered by the said M.Shakunthalamma dated 05-07-2004, the second respondent passed the impugned order dated 14-07-2004 cancelling the authorisation issued in the name of Thulasi Mahila Mandali.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned counsel for the petitioner contends that the said Smt. M.Shakunthalamma is not running the shop from the year 1996 onwards and since then the Tulasi Mahila Mandali, represented by its President Smt.Vemulapalli Rani has been running the shop and therefore the second respondent is not justified in cancelling the authorisation on the basis of the consent of Smt. Shakunthalamma who has nothing to do with the petitioner Society.

One Smt. K.Sunitha got herself impleaded as Respondent No.4. She states that consequent to the impugned order of cancellation, the vacancy has been notified on 20-07-2004, and the interviews were also held on 09-08-2004 by the third respondent. She states that she appeared for the interview and has got fair chances of appointment and contends that the writ petition is not bona fide and liable to be dismissed. It is not in dispute that the petitioner has already preferred an appeal against the impugned order of cancellation before the second respondent-Joint Collector, Warangal and the same is pending. It is also relevant to note that by virtue of the interim orders granted by this Court in W.P.M.P.No.17283 of 1996 in W.P.No.14158 of 1996 dated 19-07-1996, the petitioner has been running the shop.

As can be seen from the material on record, the matter involves several disputed question of fact which cannot be investigated into by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Particularly the questions whether the petitioner society is existing and whether Smt. Shakunthalamma is still continuing as Secretary or whether the Society as on today is represented by Smt. Rani and whether the consent of the said Shakunthalamma can be taken into consideration for cancellation of authorisation are all questions which require detailed enquiry on appreciation of the material that may be produced by the respective parties. Since admittedly, statutory appeal is pending, it is open to both the parties to urge all the grounds before the appellate authority.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of with a direction to the first respondent to dispose of the appeal pending on his file after affording due opportunity to the petitioner as well as to the fourth respondent and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this

order. Till the disposal of the appeal, the order dated 14-07-2004 shall not be given effect to.

The writ petition is accordingly disposed of. No costs.

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05-10-2004

kdl

To

1 The Joint Collector, Warangal District, Warangal.
2 The Revenue Divisional Officer, Narsampet Division, Warangal District.
3 The Mandal Revenue Officer, Khanapur Mandal, Warangal District.
4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

5 Two C.D.Copies.